

A9

Notice of Allowability	Application No.	Applicant(s)	
	09/850,985	WU ET AL.	
	Examiner	Art Unit	
	Sandra M. Nolan	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the letter of 15 December 2003.
2. ☒ The allowed claim(s) is/are 1-5 and 11-14.
3. ☒ The drawings filed on 17 October 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20040318</u> . |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>13 August 2001</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with Ms. Cynthia Thompson (312/425-8637) on 10 March 2004.
3. The application has been amended as follows:

In the Claims

Claims 23 through 46 have been cancelled.

Remarks

The nonelected claims have been cancelled.

REASONS FOR ALLOWANCE

4. The following is an examiner's statement of reasons for allowance:

The base claim is claim 1, which can be summarized as follows:

Claim 1 covers a container comprising a base having a bottom wall and a base wall, with the base wall encompassing the bottom and extending upwardly therefrom, the base comprising a composition of 35 to 65% of a filler including talc and 50 to 75 wt% calcium carbonate and 35 to 65% polyolefin, wherein the container has Gardner Impact Mean Failure Energy of more than about 8 in-lbs., as measured on a 0.020 inch thick sheet in accordance with ASTM D5420-98a. The examiner notes that the ASTM test specified is a standard one whose current parameters are well known.

Art Unit: 1772

5. The closest applicable prior art found can be summarized as follows:

Akao (US 5,225,466) teaches containers made from polypropylene and 0.05 to 40 wt% calcium carbonate, barium sulfate and/or talc. It does not teach that the calcium carbonate filler must be present at levels of 50 to 75 wt% or that its containers have the Gardner impact properties claimed.

JP 61032743A teaches that talc has high aspect ratios and is used with polypropylene to give moldings having good strength and rigidity. It does not teach the use of 50 to 75wt% calcium carbonate or articles having the Gardner impact properties claimed.

Neither reference teaches or suggests containers having all of the features recited in claim 1.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra M. Nolan whose telephone number is 571/272-1495. The examiner can normally be reached Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571/272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1772

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sandra M. Nolan
Technology Center 1700

09850985(20040318)

SANDRA M. NOLAN
PRIMARY EXAMINER